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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,037	07/02/2003	Willem Johannes Van Straaten	183-12	9386
24336	7590	09/06/2006		
KEUSEY, TUTUNJIAN & BITETTO, P.C. 20 CROSSWAYS PARK NORTH SUITE 210 WOODBURY, NY 11797				
			EXAMINER RICHMAN, GLENN E	
			ART UNIT 3764	PAPER NUMBER

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,037

Applicant(s)

VAN STRAATEN, WILLEM
JOHANNES

Examiner

Glenn Richman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 45 and 46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/2/03, 12/3/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 44 and 45 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 6/13/06.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-19, 34, 41-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Engel et al.

Engel discloses a support structure (60); a resistance assembly connected to the support structure (40), a drive member having an output point from which force is applied to the resistance assembly and an input point which is spaced from the output point by a distance L (87); and at least one handle acting on the drive member at the input point and which a user can engage and move, in a continuous, load-exerting manner, against a resistance force generated by the resistance assembly (82).

As for claims 2-19, Engel further discloses at least one handle comprises one handle with which one hand of the user is engageable (82), at least one handle is such that two hands of the user are engageable therewith (fig. 1), the user's arms act in

unison on the handle against the resistance force (fig. 1), the input point is movable along a path which forms a closed loop (fig. 1), the path is a defined circular path (fig. 1), the closed loop lies in a substantially vertical plane (fig. 1), the shape of the closed loop is dynamically variable (84,85), at least one member which is adjustable to vary the distance L (84, 85), at least one member is adjustable against a biasing element (84, 85), a releasable fastener acting on the at least one member for preventing the distance L from varying after adjustment (86), the at least one member is rotatable by the handle about the output point (fig. 1), the at least one handle includes grips for the user's hands, the grips being positioned so that the user's hands, when engaged with the grips, extend around a common axis which is transverse to the closed loop (81,82), input axis which is transverse to the closed loop and which extends through the input point, wherein the at least one handle includes grips for the user's hands which are positioned on respective opposed sides of said input axis (fig. 1), the grips are rotatable in unison about the input axis (fig. 1), the support structure extends upwardly and includes a base which is attachable to a floor to stabilise the support structure during use (fig. 1), the support structure extends upwardly and includes formations for attaching the support structure to a wall to stabilise the support structure machine during use (14,16), a base attached to a lower end of the support structure and providing a platform upon which the user stands so that the user's mass stabilises the support structure during use thereof (fig. 1), the circular path has a highest point which is a distance X above a ground reference level on which the user stands and a lowest point which is a distance Y above the ground reference level and wherein $X > 2Y$ (fig. 1).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 26, 28, 30, 32, 33 , 34 are rejected under 35 U.S.C. 102(b) as being anticipated by D'Angelo.

D'Angelo discloses a support structure (20); a resistance assembly connected to the support structure (14), a drive member having an output point from which force is applied to the resistance assembly and an input point which is spaced from the output point by a distance L (fig. 1); and at least one handle acting on the drive member at the input point and which a user can engage and move, in a continuous, load-exerting manner, against a resistance force generated by the resistance assembly (fig. 1), a drive arrangement which is connected to the drive member at the output point, and which is connected directly or indirectly to the resistance assembly, said drive arrangement increasing the force generated by the resistance assembly and presented to the drive member (fig .1), a unidirectional drive device for transferring force from the input point to the resistance assembly (fig. 1),

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20, 21, 24 rejected under 35 U.S.C. 103(a) as being unpatentable over D'Angelo.

D'Angelo does not specifically disclose the support structure has two upwardly extending supports, however, if the coupling members were pivoted counterclockwise, then support members (16) would be extending upwards, instead of outwards, and as it would be obvious to have the members either way, for supporting the resistance assembly.

D'Angelo further disclose the resistance assembly being mounted to at least one of the supports (fig. 1), and includes a base (17) which interconnects lower ends of the supports and forms a platform upon which the user stands, the supports are pivotally movable towards, and away from, each other (fig. 1), the drive member is adjustable to vary the distance L (fig. 1), the handle includes an elongate shaft extending transversely from the drive member, said elongate shaft being of sufficient length to provide grips for the user's hands (fig. 1),

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over D'Angelo in view of Shifferaw.

D'Angelo does not disclose the base includes a plurality of pivotally interconnected panels.

Shifferaw discloses a base includes a plurality of pivotally interconnected panels (claim 10).

It would have been obvious to use Shifferaw's panels with D'Angelo's base, as it is well known to use pivotally interconnected panels, for folding a base structure, as taught by Shifferaw.

Claims 23, 27, 29, 31, 35-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Angelo in view of Duggan.

D'Angelo does not disclose the resistance assembly includes a flywheel.

In a similar device Duggan discloses a resistance assembly includes a flywheel 65.

It would have been obvious to use Duggan's flywheel with D'Angelo's disc resistance, as it is well known to use a flywheel, for providing the resistance in this type of exercise device.

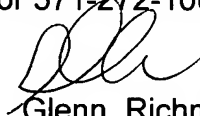
Duggan further discloses the resistance assembly includes a flywheel and the input point is movable along a circular path, the drive arrangement being such that the ratio of the rotational speed of the flywheel to the rotational speed of the drive member around the input point is greater than 20 (col. 3, lines 59 – et seq.),

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Glenn Richman
Primary Examiner
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